

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LARRY SPENCER,

Petitioner,

v.

CATHY FARREY, Warden,
New Lisbon Correctional Institution,

Respondent.

ORDER

05-C-666-C

This petition for a writ of habeas corpus was dismissed on March 14, 2007. Subsequently, petitioner filed a notice of appeal and I denied his request for a certificate of appealability. The Court of Appeals agreed that petitioner was not entitled to a certificate of appealability.

Now petitioner has filed a document titled "Motion to Correct Magistrate Judge Stephen L. Crocker Removal of Attorney Mark Maciolek Without my Consent or Request Which Left Me Incompetent to Represent Myself Again." In this document, petitioner appears to be asking that his case be reopened and reheard on the ground that it was error for the district court to rule on the merits of his petition after having allowed his appointed counsel to withdraw. In support of his motion, petitioner cites Pruitt v. Mote, --- F.3d ---,

2007 U.S. App. Lexis 23109 (7th Cir. Oct. 3, 2007), a civil case in which the court of appeals ruled that it was error for the district court to deny the plaintiff's motion for appointment of counsel without considering both the difficulty of the case and the pro se plaintiff's competence to litigate his claims.

Unfortunately for petitioner, Pruitt does not establish a standard for determining whether appointment of counsel is appropriate in a habeas corpus action and, even if it did, its application is not retroactive. Petitioner's case is completed and the rulings made in the case while it was pending are the law of the case.

Accordingly, petitioner's "Motion to Correct" is DENIED.

Entered this 14th day of November, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge